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Attorney for the Defendant
Gilberto Marquez

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

GILBERTO MARQUEZ,

Defendant.

Case No.: 2:23-cr-00564-MWF

MOTION FOR AN EXPEDITED BOND
HEARING

*Before the Honorable Michael W.
Fitzgerald, District Court Judge*

DATE:

TIME:

TO THE HONORABLE JUDGE MICHAEL W. FITZGERALD, UNITED STATES
DISTRICT JUDGE FOR THE CENTRAL DISTRICT OF CALIFORNIA:

COMES NOW Defendant, GILBERTO MARQUEZ (hereinafter "Defendant, Mr.
Marquez"), through his attorney, Ambrosio E. Rodriguez, pursuant to 18 U.S.C. §§ 3142 and
3145(b), and respectfully requests that this Court set an expedited hearing to review the
detention order entered by Magistrate Judge Rozella Oliver and set reasonable conditions of
release pending trial. Mr. Marquez respectfully submits this Notice of Motion and Motion, the
Memorandum of Points and Authorities, and any and all evidence in support of this motion.

1 DATED: March 6, 2024

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3 Respectfully submitted,

4 /s/ Ambrosio E. Rodriguez

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7 Ambrosio E. Rodriguez,
8 Attorney for Mr. Marquez
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Procedural History

Mr. Marquez stands charged by indictment with one count of 21 U.S.C. § 846; one count for violations of 21 U.S.C. 841(a)(1), (b)(1)(C), 18 U.S.C. § 2(a); and related forfeiture allegations. On November 22, 2023, the Honorable Magistrate Judge, Rozella Oliver, granted the Government's request for detention and ordered that Mr. Marquez be permanently detained pending trial. The Court issued the Order of Detention based on the nature of the allegations: (1) that there was an offence with a maximum sentence with life imprisonment or death; (2) that the offence involves a narcotics; (3) that the defendant would flee, and that there are no conditions or combinations of conditions that will reasonably assure the safety of the community. (*see ECF. #31*)

However, the Magistrate Judge also ordered that Mr. Marquez's codefendant and brother, Mr. Tomas Marquez-Ruiz, be released with an appearance bond of \$100,000 and an affidavit of surety without justification signed by Mr. Marquez-Ruiz's wife, as well as other standard terms of release. Mr. Marquez was once again denied bail on February 26, 2024, by Magistrate Judge Oliver.

Mr. Marquez is nearly identically situated to the codefendant. Mr. Marquez, through counsel, now files this motion to ask the Court to set an expedited hearing, to allow for the presentation of new evidence, and to reconsider the Order of Detention issued on November 11, 2023, before this Court.

Legal Argument and Supporting Facts

Title 18 U.S.C. § 3145(b) provides for the prompt review by the District Court of a detention order issued by a Magistrate Judge. In reviewing such an order, the Court gives no deference to the Magistrate Judge's factual findings, but reviews them *de novo*. See *United States v. Rueben*, 974 F.2d 580, 585 (5th Cir. 1992). The Court must make an independent determination of the proper pretrial detention or conditions of release. *Id.* For the Government to show that the defendant should be detained without bond, it must prove by clear and

1 convincing evidence that no condition or combination of conditions will reasonably assure the
2 safety of any other person and the community. See 18 U.S.C. § 3142(f)(2).

3 Mr. Marquez respectfully submits that, pursuant to 18 U.S.C. § 3145(b), he is entitled
4 to an expedited review of the Magistrate Judge's detention order. He seeks release on bond so
5 that he may seek employment and continue to make a living. Here, new evidence includes the
6 retention of new counsel, a review of the previous record indicating that a similarly situated
7 defendant was released with an affidavit of surety, and that it is in the defendant's best interest
8 to be released to be able to aid in his own defense. Mr. Marquez has expressed to counsel his
9 willingness to abide by any release conditions that the Court might impose that would allow for
10 him to continue working and to aid in his defense.
11

12 Mr. Marquez would be seeking bond, with an ankle monitor that is restricted to home,
13 work, church, court and attorney's office, and a \$100,000 unsecured bond signed by his
14 mother, Ms. Emilia Ruiz Rodriguez. Ms. Ruiz Rodriguez's Date of Birth is April 5, 1962. Her
15 address is 11550 Poema Place, Unit 102, Chatsworth, CA 91311. In a pretrial services report, it
16 appears that Ms. Ruiz Rodriguez mistakenly reported incorrect income to post surety. In
17 addition, Mr. Marquez's extended family is willing to post bond with an affidavit of surety.
18 Ms. Ana Mata, is one of the extended family members who is willing to post bond. She can be
19 reached at (571)422-8896 is a resident of the state of Maryland. Georgina Ramirez Vigil is also
20 willing to post bond for Mr. Marquez. She lives in Sacramento, California, and can be reached
21 at (916) 600-3798 she lives in Sacramento. For this reason, he respectfully requests an
22 expedited hearing so that the Court may consider the evidence presented at a detention hearing
23 as well as new evidence to be presented by Mr. Ambrosio E. Rodriguez.
24

25 PRAYER

26 WHEREFOR, premises considered, Defendant respectfully requests that this Honorable
27 Court set an expedited bond hearing and thereafter impose reasonable conditions of pretrial
28 release and set bond accordingly for Defendant, Mr. Marquez.

Respectfully submitted,

/s/ Ambrosio E. Rodriguez

Ambrosio E. Rodriguez,
Attorney for Mr. Marquez

EXHIBIT A

PRETRIAL SERVICES REPORT
CENTRAL DISTRICT OF CALIFORNIA

District Office Los Angeles		Charge(s), Title, Section, Description 21 USC § 846, 841: Conspiracy to Distribute Controlled Substances	
Judicial Officer The Honorable Rozella A. Oliver			
Docket Number 2:23-cr-00564-MWF-4			
Time 10:00 a.m.	Date February 26, 2024		
U.S. Probation & Pretrial Services Officer Di Nisha Sanchez-Jackson 213-321-3847			

DEFENDANT HISTORY

Name Gilberto Marquez		Employment/School El Ranchero Comida Mexicana Y Salvadoran (Owner and Operator)	
Address See Report		Address 15304 Part Street North Hills, CA 91343	
Time at Address 3 Years	Time in Community 8 Years	Monthly Gross Income Up to \$11,000	Time in Employ/School 2 Years

**FOR COURTROOM USE ONLY - RETURN TO PRETRIAL SERVICES AT CLOSE OF
HEARING PROPERTY OF UNITED STATES DISTRICT COURT
MUST NOT BE TAKEN FROM COURTROOM OR PHOTOCOPIED
TITLE 18 U.S.C. 3153(c)(1); (2)**

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Pretrial Services Report for The Honorable Rozella A. Oliver

Re: Gilberto Marquez

Previous Proceedings: On November 22, 2023, the defendant appeared before Your Honor for his initial appearance. On that date the defendant was ordered detained due to danger concerns.

Attached for the Court's consideration is the Pretrial Services Report dated November 22, 2023.

At this time, defense counsel has requested the matter be brought before Your Honor for the purpose of Review/Reconsideration of Order Setting Conditions of Release/Detention. According to defense counsel, a similarly situated defendant was released and relief may also be sought for the defendant by the posting of a \$100,000 Unjustified Appearance Bond signed by his mother, in addition to Location Monitoring.

Additional Information: Defense counsel initially referred Pretrial Services to speak with the defendant's wife, Brenda Martinez Portillo, regarding bond, however, due Ms. Portillo's immigration status, the Bail Review application was amended to contact the defendant's mother, Emilia Ruiz Rodriguez for bond.

Ms. Ruiz Rodriguez is willing to serve as a surety and sign an Appearance Bond, without justification. Ms. Ruiz Rodriguez advised she would be signing the same amount her daughter in law was initially prepared to sign of \$100,000 Unjustified. The role and responsibility of acting as surety was explained and accepted by Ms. Rodriguez. Ms. Ruiz Rodriguez is a legal permanent resident and has maintained employment cleaning homes for over 20 years. She earns a monthly income between [\$1,200-\$1,300] Ms. Rodriguez also confirmed her daughter in law remains in the process of obtaining legal status and owns a restaurant with the defendant.

Ms. Rodriguez also informed Pretrial Services that the defendant's wife and children moved to the following address: 15534 Chase Street, #202, North Hills, CA. 91343. If released, defendant will reside at this address.

The Government continues to seek detention.

Summary / Comments: A new additional surety has come forward; however, Pretrial Services does not believe the defendant's mother's income can sufficiently support a \$100,000 Unjustified Appearance Bond. Further, Pretrial Services assessment of risk of nonappearance or danger is based on an individual basis, and the defendant's role in the alleged offense as previously outlined by the arresting agent remains greatly concerning to Pretrial Services. Additionally, Location Monitoring is a tool utilized to mitigate risk of flight and not danger as proposed by defense counsel.

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Pretrial Services Report for The Honorable Rozella A. Oliver

Re: Gilberto Marquez

Therefore, there continues to be no conditions or a combination of conditions to mitigate the risk of danger to the community and detention is respectfully recommended.

DSJ/jaj